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SUBJECT: COLOMBIAN CONGRESS FREES 19,000 AUC FROM LEGAL
LIMBO, HUMAN RIGHTS GROUPS CRITICAL

REF: 07BOGOTA5530

SUMMARY

¶1. (SBU) The Colombian Congress passed a law on June 15 allowing the Prosecutor General's Office (Fiscalia) to apply the 'principle of opportunity'--a plea bargain which allows suspension of criminal investigations--to 19,000 demobilized rank-and-file paramilitaries. The 19,000 demobilized in the expectation they would be pardoned for lesser crimes such as membership in an illegal armed group, but have been in legal limbo since a July 2007 Supreme Court ruling that former paramilitaries could not receive such benefits. President Uribe and the OAS Mission in Support of the Peace Process (MAPP/OAS) said the Court's ruling had undercut the paramilitary peace process and lobbied for the law. Still, human rights groups claim it will promote impunity. The law also permits use of plea bargaining in cases involving "front men" holding assets of narcotraffickers, guerrillas, and paramilitaries. End Summary

LAW CLARIFIES LEGAL STATUS OF DEMOBILIZED RANK-AND-FILE

¶2. (U) The Colombian Congress passed a law on June 15 permitting the Prosecutor General's Office (Fiscalia) to apply the 'principle of opportunity'--essentially a standardized plea bargain for cooperating witnesses--to 19,000 demobilized rank-and-file United Self-Defense Forces (AUC) paramilitaries. The 19,000 had been in legal limbo since a July 2007 Supreme Court ruling that former AUC paramilitaries did not qualify for benefits under Law 782, thereby removing the legal basis for pardoning AUC for lesser crimes such as membership in an illegal group.

¶3. (U) Under the new law, a prosecutor can suspend a criminal investigation--pending judicial review and approval--if the defendant is cooperating. The law also allows application of the 'principle of opportunity' to narcotrafficking, terrorism, or terrorism finance crimes if the defendant is not a leader of the criminal organization, provides information that disrupts the criminal activity, and serves as a witness against others in the organization. The law excludes individuals who have committed human rights violations or crimes against minors from receiving 'principle

of opportunity' benefits.

¶4. (SBU) The GOC, MAPP/OAS and Fiscalía had advocated the 'principle of opportunity' solution for AUC foot soldiers after the Court's ruling, and applauded Congress' move to clarify the legal status of the 19,000 demobilized paramilitaries. President Uribe had sharply criticized the Supreme Court's 2007 ruling--noting that it undercut the paramilitary peace process and would discourage FARC members from demobilizing as well. Fiscal Mario Iguaran said the new law would promote more efficient use of the Fiscalía's scarce resources, and predicted it would encourage potential witnesses to cooperate in investigations of criminal and terrorist groups.

HUMAN RIGHTS GROUPS OPPOSED

¶5. (U) Still, some lawmakers and human rights activists criticized the law, claiming it would promote impunity. Opposition Polo Party Representative German Navas said the law would result in "19,000 impunities." A June 22 Amnesty International press release declared that the "failure to carry out even the most rudimentary of investigations for human rights violations means that thousands of human rights abusers will evade justice, while their victims will never know the truth." In a June 21 op-ed in daily El Tiempo, Michael Reed, Country Director of the International Center for Transitional Justice, lamented the triumph of expediency over justice and called the law a "backdoor amnesty."

OFFER CAN BE EXTENDED TO FRONT MEN

¶6. (U) In a shift, the law also allows the Fiscalía to apply the principle of opportunity' to "front men" (testaferros) who turn over narcotrafficking, guerrilla, or paramilitary assets hidden in their names. The decision could benefit the families of former paramilitary leaders and facilitate the payment of reparations to victims. Many family members of paramilitaries have demanded legal protection prior to surrendering illegally-gained assets to the Victims Reparation Fund.
Brownfield